

# Holland & Knight

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July 29, 2019 Application granted.

SO ORDERED:

BY ECF

Honorable William H. Pauley, III  
Senior United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

  
WILLIAM H. PAULEY III  
U.S.D.J.

July 30, 2019

Re: United States v. Nicholas Genovese  
18 Cr. 183 (WHP)

Dear Judge Pauley:

I respectfully submit this letter to Your Honor to notify the Court of a recent development and propose for the Court's consideration a brief schedule to permit the opportunity to further address the pertinent issues with defendant Genovese, and the Government.

Unbeknownst to me, Mr. Genovese sent a letter, dated July 22, 2019, to AUSA Samson Enzer concerning the legal effect of his plea agreement in light of recent information from the Government and his subsequent review and analysis of certain documents. Mr. Genovese's letter arises from the Government's recent acknowledgement of its erroneous forfeiture dollar total – overstated by approximately \$2 million – that was included as a term in the parties' plea agreement, in the consent preliminary order of forfeiture that the Court entered on October 22, 2018 (Dkt. No. 21), and as part of the defendant's colloquy with the Court during the plea proceeding. The parties, through counsel, notified the Court of the Government's error by letter, dated June 20, 2019 (Dkt. No. 36).

My efforts since last week to fully review and address with Mr. Genovese the issues implicated by his letter require additional time. For obvious reasons, it is not feasible to submit a sentencing memorandum or proceed to sentencing according to the current schedule. I have contacted AUSA Enzer, who has received Mr. Genovese's letter and who, on behalf of the Government, consents to the proposed two-week schedule, as set forth below. Accordingly, I respectfully propose that I report the status of these issues to the Court by August 15, 2019. By

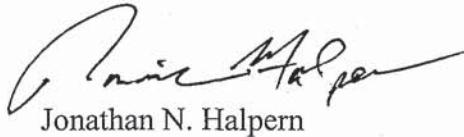
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that time, I expect that a sentencing date would be able to be re-set, or I would be in a position to submit a different application to Your Honor.

Mr. Genovese continues to be detained at the MDC facility in Brooklyn. (Although recently there has been some improvement in the delivery of legal mail to Mr. Genovese, inexplicable delays persist. For example, legal mail was sent to Mr. Genovese July 18, 2019, by certified mail -- as per BOP-MDC's recommendation -- and received at the MDC's post office box July 22, 2019, but I understand was not delivered to Mr. Genovese until three business days later. As a result, his timely review has been delayed.)

This letter reflects the first request of this nature for relief for the particular reasons stated.

Respectfully submitted,



Jonathan N. Halpern

JNH:cea

cc: AUSA Samson Enzer  
(by email and ECF)